IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 7925 of 1997

DATED: 1.2.2006

Between:

G.V.Prasad

petitioner

And

The Regional Manager, APSRTC

Tirupati and others

Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 7925 OF 1997

ORAL ORDER:

The present writ petition is filed questioning the proceedings of the first respondent No.E3/329(10)/95(RM)/T dated 22.1.1997 rejecting the case of the petitioner for absorption in the respondent corporation.

The petitioner claims that he was engaged as casual Cleaner in the month of November, 1987 on daily wage basis and worked as Vulcanizer and Electrician in Chittoor depot. While so, in the last week of April, 1989 his services were terminated

orally. Questioning the said oral termination, the petitioner filed W.P. No. 8172 of 1989. Initially interim orders were granted in the said writ petition and finally the writ petition was disposed of by order dated 21.11.1996 with a direction that the corporation may consider the case of the petitioner for appointment to the post of Vulcaniser or any other suitable post, if the petitioner possess the necessary qualification and experience. Pursuant to the above directions of this Court, the respondent considered the case of the petitioner and rejected the same vide impugned proceedings dated 22.1.1997.

A counter affidavit was filed on behalf of respondents, *inter alia,* denying the engagement of the petitioner as casual cleaner and stating that the petitioner was entrusted with a contract work of vulcanising @ Rs.0.60 Ps per puncture from 22.11.1987 till the end of August, 1988. The said contract period was for less than one year period and during that period petitioner was not entrusted with any other work. It is specifically stated that the petitioner does not fulfill the requirement stipulated in circular No.PD 83/88 dated 1.9.1988 and is not entitled for absorption.

The petitioner contends that he has worked in the respondent corporation for more than one year whereas, in the counter affidavit, the respondent corporation denies the same and contends that the petitioner was entrusted with the contract work of vulcanizing at a piece rate for about nine months i.e., from 22.11.1987 to August, 1988 and is not entitled for the benefits under circular No.PD-83/88 dated 1.9.1988 which prescribes a minimum period of one year. The statement of the corporation is self contradictory inasmuch as in the counter it contends that petitioner is not a casual labour and the impugned proceedings states that the petitioner worked as contract labour from 22.11.1987 to August 1988. Whether the petitioner was entrusted with a contract work or he was engaged as a casual labour, and the number of days worked by the petitioner are all disputed questions of facts, which cannot be gone into in this writ petition. In "***Steel Authority of India Ltd. V. National Union Water Front Workers***[1]", it was observed by the apex Court that the determination of question as to whether the contract of employment of labour is a genuine one or a mere ruse/camouflage to evade the provisions of beneficial labour legislation, requires inquiry into disputed questions of facts which cannot conveniently be made by High Courts in exercise of jurisdiction under Article 226 of the Constitution, and the appropriate authority to go into those issues will be industrial Tribunal/Court whose determination will be amenable to judicial review.

Hence, this Court, in exercise of jurisdiction under Article 226 of the Constitution, cannot gone into the disputed questions of fact and grant any relief to the petitioner and the appropriate authority to go into those issues will be the Industrial Tribunal.

In the circumstances, the writ petition is dismissed granting liberty to the petitioner to approach the Labour Court for redressal of his grievance. No costs.

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N.V.RAMANA, J.

01.02.2006

TVK/NSR